

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Perri Fagin	Team: Squad #10	CCRB Case #: 201709896	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 11/29/2017 9:30 AM	Location of Incident: 71st Street -- Forest Hills subway station	Precinct: 112	18 Mo. SOL 5/29/2019	EO SOL 5/29/2019	
Date/Time CV Reported Wed, 11/29/2017 12:08 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 11/29/2017 12:08 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Theresa Tucker	07553	943899	TB DT20
2. POF Tchekie Mars	22239	952894	TB DT23

Officer(s)	Allegation	Investigator Recommendation
A.POF Theresa Tucker	Abuse: Police Officer Theresa Tucker refused to provide her name and shield number to § 87(2)(b)	
B.POF Tchekie Mars	Abuse: Police Officer Tchekie Mars interfered with § 87(2)(b)'s use of a recording device.	
C.POF Theresa Tucker	Abuse: Police Officer Theresa Tucker threatened to arrest § 87(2)(b)	

Case Summary

§ 87(2)(b) filed this complaint with the CCRB online on November 29, 2017.

On November 29, 2017, at approximately 9:30 a.m., § 87(2)(b) jumped over the turnstiles and evaded subway fare inside the 71st Street – Forest Hills subway station in Queens. § 87(2)(b) was approached by Police Officer Theresa Tucker of Transit District 20 and Police Officer Tcheckie Mars of Transit District 23.

PO Tucker issued § 87(2)(b) a summons for § 87(2)(b). § 87(2)(b) allegedly requested PO Tucker's name and shield number, and she told him the information would be on the back of the summons (**Allegation A: Abuse of Authority**, § 87(2)(g)). PO Tucker told § 87(2)(b) he was ejected from the subway station. PO Tucker and PO Mars escorted § 87(2)(b) out of the subway station, and § 87(2)(b) took his phone out in an attempt to take photos of the officers. PO Mars allegedly swatted § 87(2)(b)'s phone out of his hand, causing it to fall to the ground (**Allegation B: Abuse of Authority**, § 87(2)(g)). When he was ejected, PO Tucker threatened to arrest § 87(2)(b) if he returned (**Allegation C: Abuse of Authority**, § 87(2)(g)).

There was no available video footage of this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Theresa Tucker refused to provide her name and shield number to § 87(2)(b)

Amongst § 87(2)(b), PO Tucker, and PO Mars, it is undisputed that § 87(2)(b) asked PO Tucker for her name and shield number once (Board Review 01) (Board Review 02) (Board Review 03).

§ 87(2)(b) testified that he requested PO Tucker's name and shield number and PO Tucker responded that the information would be on the back of the summons. PO Tucker issued § 87(2)(b) a summons with her name and tax identification number on the summons. From the summons, § 87(2)(b) was able to identify PO Tucker in his initial CCRB complaint.

PO Tucker testified that § 87(2)(b) solely requested her name. PO Tucker gestured with her hand toward her shield, which was displayed on her uniform, and verbally provided her name and shield number to § 87(2)(b). PO Tucker also told § 87(2)(b) her information was on the back of the summons she issued him.

PO Mars testified that § 87(2)(b) requested PO Tucker's name and shield number, and PO Tucker verbally provided § 87(2)(b) with the information.

On the copy of the summons issued to § 87(2)(b), PO Tucker's name and tax number are clearly written and legible (Board Review 04).

An officer must provide their name, shield number, and command to anyone who requests they do so. NYPD Patrol Guide, Procedure 203-09 (Board Review 05).

§ 87(2)(g)

Allegation (B) Abuse of Authority: Police Officer Tcheckie Mars interfered with § 87(2)(b)'s use of a recording device.

§ 87(2)(b) testified that he was attempting to take photos of PO Mars and PO Tucker. However, they were moving around a lot and he had trouble capturing clear photos. While § 87(2)(b)'s phone was out, he alleged that PO Mars swatted it out of his hand, resulting in it landing on the floor. His phone case had a scratch on it, but there was no damage to the phone that resulted from the drop. He picked his phone up and captured some photos. There was no conversation between the officers and § 87(2)(b) regarding his phone falling to the ground.

PO Mars and PO Tucker both testified that they believed § 87(2)(b) was taking photos of them. PO Mars denied taking any action that interfered with his recording, and PO Tucker denied observing PO Mars take any such action. PO Mars denied knocking § 87(2)(b)'s phone out of his hand, and PO Tucker denied ever observing this. Both PO Mars and PO Tucker denied seeing § 87(2)(b)'s phone on the floor.

§ 87(2)(g)

Allegation (C) Abuse of Authority: Police Officer Theresa Tucker threatened to arrest § 87(2)(b).

It is undisputed that § 87(2)(b) jumped over the turnstile, thereby evading subway fare. It is further undisputed that, pursuant to § 87(2)(b) receiving a summons for § 87(2)(b), PO Tucker ejected him from the subway station.

§ 87(2)(b) testified that when PO Tucker informed him he was being ejected, she told him, "You're getting evicted from the station. If you ever come back, we'll arrest you." § 87(2)(b) told PO Tucker that he used the subway to get to work, and asked how he would get to work that day. PO Tucker told him to use another subway station, and that if he came back, he would be arrested.

PO Tucker testified that she checked the "ejection box" on the bottom of the summons, signifying that § 87(2)(b) was being ejected from the station pursuant to this summons. PO Tucker informed § 87(2)(b) that he was being ejected, and that if he returned to the station, he would be subject to arrest. PO Tucker denied telling § 87(2)(b) a timeframe regarding when he was forbidden to enter the station. In her memo book, PO Tucker noted that § 87(2)(b) was informed that if he returns after being ejected, he may be subject to arrest (Board Review 11).

PO Mars testified that PO Tucker informed § 87(2)(b) that he was ejected from the station, and if he returned, he could be arrested.

On the bottom of § 87(2)(b)'s summons, PO Tucker indicated that § 87(2)(b) was ejected from the station (Board Review 04).

Individuals are not permitted to enter the New York City Transit subway system without payment of the fare. Any person who is observed by a New York City police officer to be violating any of MTA's rules and who may receive or has received a notice of violation therefore is subject to ejection from the facilities. New York City Transit Rules of Conduct and Fines, Section 1050.11 (Board Review 07). A person is guilty of trespassing when they knowingly enter or remain unlawfully upon premises. New York Penal Law, Section 140.05 (Board Review 08).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 09).
- PO Tucker has been a member-of-service for 11 years and has been a subject in one CCRB complaint and one allegation, which was not substantiated.
 - § 87(2)(g)
- PO Mars has been a member-of-service for five years and this is the first CCRB complaint to which she has been a subject.

Mediation, Civil and Criminal Histories

- On December 13, 2017, this case was sent to mediation and on January 29, 2018 this case was returned to investigation as PO Tucker declined to mediate, deeming this complaint no longer suitable for mediation.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- On March 11, 2018, an inquiry was sent to the Office of the New York City Comptroller regarding whether a Notice of Claim was filed regarding this incident. This request is still pending (Board Review 06).

Squad No.: 10

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date